

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARCUS GERLACH, et al.,

Plaintiffs,

v.

CITY OF BAINBRIDGE ISLAND, et al.,

Defendants.

CASE NO. C11-5854BHS

ORDER DENYING PLAINTIFFS'  
MOTION FOR  
RECONSIDERATION

This matter comes before the Court on Plaintiffs' motion for reconsideration (Dkt. 24). The Court has considered the pleadings filed in support of and opposition to the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

**I. FACTUAL AND PROCEDURAL HISTORY**

For a more complete procedural and factual history, see the Court's order on Defendants' motion for summary judgment. Dkt. 23. On August 7, 2012, the Court granted in part Defendants' motion for summary judgment and remanded this action to the court in which it was filed. Dkt. 23.

1 On August 16, 2012, Plaintiffs filed a motion for reconsideration of the Court's  
2 order. Dkt. 24. The Court requested a response from Defendants which was filed on  
3 September 24, 2012 (Dkt. 32) and on September 27, 2012, Plaintiffs replied (Dkt. 38).

## 4 II. DISCUSSION

5 Motions for reconsideration are governed by Local Rule CR 7(h), which provides  
6 as follows:

7 Motions for reconsideration are disfavored. The court will ordinarily deny  
8 such motions in the absence of a showing of manifest error in the prior  
9 ruling or a showing of new facts or legal authority which could not have  
10 been brought to its attention earlier with reasonable diligence.

11 Local Rule CR 7(h)(1).

12 Having considered Plaintiffs' motion for reconsideration, Defendants' response  
13 and Plaintiffs' reply, the Court concludes that although Plaintiffs present what may be  
14 considered "new" facts, they have failed to show how such facts would change the  
15 Court's analysis and conclusion in its order on their motion for summary judgment.  
16 Plaintiffs' argument in seeking reconsideration of the Court's ruling regarding Defendant  
17 Joshua Machen's ("Machen") qualified immunity are neither relevant nor material to the  
18 Court's decision for the same reasons their earlier arguments failed to defeat his qualified  
19 immunity defense. In addition, Plaintiffs fail to present new facts or otherwise show  
20 manifest error in the Court's ruling on their claim under RCW 64.40. Finally, Plaintiffs  
21 fail to show relevant or material facts that would require the Court to change its ruling on  
22 the motion for continuance under Rule 56(d) of the Federal Rules of Civil Procedure.

**III. ORDER**

Therefore, it is hereby **ORDERED** that Plaintiffs' motion for reconsideration (Dkt. 24) is **DENIED**.

Dated this 16th day of October, 2012.

A handwritten signature in black ink, appearing to read "Benjamin H. Settle", is written over a horizontal line.

BENJAMIN H. SETTLE  
United States District Judge